VILLAGE OF LUDLOW, VERMONT

ORDINANCE PROHIBITING MEDICAL MARIJUANA DISPENSARIES AND ESTABLISHMENTS THAT SELL OR DISPLAY DRUG AND TOBACCO PARAPHERNALIA

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ARTICLE I: PURPOSE & ENABLING AUTHORITY

WHEREAS, the Village of Ludlow Board of Trustees feels that protecting children from exploitation by those promoting the illegal consumption of marijuana, tobacco and tobacco related products by minors and trafficking in drugs and drug-related products is a goal of highest priority within the Village of Ludlow; and

WHEREAS, prohibiting businesses selling or displaying drug and tobacco paraphernalia in the Village of Ludlow fosters the communities' goal by regulating exposure of impressionable minors to the commercial exploitation by businesses seeking to expand illegal consumption of tobacco and drug use by minors; and

WHEREAS, establishments that sell or display drug paraphernalia and other items promoting the use of illegal drugs characterize such paraphernalia as intended for use with tobacco products; and

WHEREAS, such regulations promote the general welfare and temperance of children and are intended to help reduce the illegal consumption and purchase of tobacco and tobacco related products and illegal drugs and drug related products by children by limiting their exposure to tobacco and drug paraphernalia and items promoting illegal tobacco and drug use; and

WHEREAS, such businesses should be treated in the same fashion as prohibited uses in the Village of Ludlow;

NOW, THEREFORE, pursuant to the authority granted them by 24 V.S.A. § 1971 of the Vermont Statutes Annotated, the Village of Ludlow Board of Trustees hereby adopts this ordinance to prohibit the establishment of medical marijuana dispensaries and drug and tobacco paraphernalia shops in the Village of Ludlow.

ARTICLE II. DEFINITIONS

As used in this ordinance, the following terms shall have the respective meanings here assigned to them:

2.01 Medical marijuana dispensary or dispensary is defined as: any facility or location where marijuana is acquired, possessed, cultivated, manufactured, transferred, supplied or sold or, made available to and/or distributed by any of the following: a registered caregiver, a registered patient, or a person with an identification card.

2.02 Drug and Tobacco Paraphernalia Establishment is defined as: any premises where drug and tobacco paraphernalia is displayed for sale and/or offered for sale.

2.03 Drug and tobacco paraphernalia is defined as: including but not limited to one or more of those items identified in that list set forth in Subdivision 2.04 (a) below, shall mean any device designed primarily for use by individuals for the smoking or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine or any other "controlled substance," as that term is defined in the Health and Safety Code of the State of Vermont.

2.04 A device "designed primarily for" the smoking or ingestion set forth in Subdivision 2.03 above, is a device which has been fabricated, constructed, altered, adjusted, or marked especially for use in the smoking or ingestion of tobacco, marijuana, hashish, hashish oil, cocaine or any other "controlled substance," and is peculiarly adapted to that purposes by virtue of a distinctive feature or combination of features associated with tobacco or drug paraphernalia, notwithstanding that it might also be possible to use the device for some other purpose.

a. Includable items or devices:
   1). Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent or otherwise, heads or punctured metal bowls;
   2). A device constructed so as to prevent the escape of smoke into the air and to channel smoke into a chamber where it may be accumulated to permit inhalation or ingestion of larger quantities of smoke that would otherwise be possible, whether the device is known as a "bong," or otherwise;
   3). A pipe designed for smoking constructed with a receptacle or container in which water or other liquid may be placed into which smoke passes and is cooled in the process of being inhaled or ingested;
   4). A pipe designed for smoking which contains a heating unit, whether the device is known as an "electric pipe," or otherwise;
   5). A device constructed so as to permit the simultaneous mixing and ingestion of smoke and nitrous oxide or other compressed gas, whether the device is known as a "buzz bomb," or otherwise;
   6). A canister, container or other device with a tube, nozzle or other similar arrangement attached and so constructed as to permit the forcing of accumulated smoke into the user's lungs under pressure;

7). A device for holding burning material, such as a cigarette that has become too small or too short to be held in the hand, whether the device is known as a "roach clip," or otherwise;"
8). Lighters and matches shall be excluded from the definition of tobacco and drug paraphernalia.

ARTICLE III: ENFORCEMENT AND PENALTIES:

3.01 This shall be a criminal ordinance which shall be enforced in accordance with the provisions in 24 VSA Ch. 59 or through any Vermont court having proper jurisdiction.

3.02 Any person found to be in violation of any provision of the ordinance shall be subject to a fine of not less than one hundred ($100.00) and not more than five hundred ($500.00). Each day's failure to comply with an order to cease and desist shall constitute a separate offense.

ARTICLE IV: SEVERABILITY

4.01 If any section, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Village of Ludlow hereby declares that it would have passed this ordinance and adopted this Ordinance and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

ARTICLE V: PUBLICATION & EFFECTIVE DATE

5.01 No section of this ordinance shall be construed to supersede or replace any Vermont Statute.

5.02 This ordinance shall be entered in the minutes of the Village Board of Trustees meeting, and posted in at least five conspicuous places within the Village of Ludlow and published in a newspaper circulating in the Village on a day not more than fourteen (14) days following the date when the ordinance is so adopted.

5.03 This Ordinance shall become effective on February 2, 2013, sixty (60) days after the date of its adoption by the Village Board Trustees, unless a petition is filed with the Village Clerk by January 17, 2013, forty-four (44) days after the date of its adoption. The petition should be addressed to the Village Trustees, should be signed by at least five percent (5%) of the qualified voters of this municipality, and should ask for a special meeting to be called on the question of disapproving the ordinance.

Questions about the Ordinance may be directed to the Municipal Manager, Ludlow, Vermont, or by calling telephone number (802)228-2841.

The foregoing ordinance is hereby adopted by the Board of Trustees of the Village of Ludlow, Vermont on this 4th day of December, 2012.

VILLAGE OF LUDLOW
BOARD OF TRUSTEES

Robert Gilmore, Chairman

David Rose

Richard Harrison